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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,709

07/08/2005

Hiroyuki Umeda

05328/LH

9836

1933 7590 10/27/2008

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
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EXAMINER

MILLER, BENA B

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

10/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,709	Applicant(s) UMEDA ET AL.	
	Examiner Bena Miller	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/08/05;07/18/06;07/23/07;06/05/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

After reconsideration of the election requirement mailed 07/10/08, the restriction has been withdrawn by the examiner. Therefore, claims 1-28 will be treated on the merits.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 7/8/05, 7/18/06, 7/23/07 and 6/05/08 was considered by the examiner.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02. The oath or declaration is defective because: It does not identify the citizenship of each inventor. It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration. The full name of each inventor (family name and at least one given name together with any initial) has not been set forth. It does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.

Drawings

Figure 40 appears to be prior art. In the event that it should be determined that Figure 40 is prior art, the figure should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1-29 are objected to because of the following informalities: It appears the term "tab" is a translation error. The known terminology used in the prior art to describe the claimed feeder (see claim 1 of the disclosed invention) is a "tub". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masamichi et al (JP170075) in view of Admitted Prior Art (APA; JP009318).

Masamichi teaches most of the elements of the claimed invention including a drive unit provided between the rotary crushing device and the conveyer (fig.1), an operation panel (7) and a swinging mechanism (32) having a swinging restriction (32a). However, Masamichi fails to teach a rotary tab, a scattering prevention cover and a screen member. The APA solves this problem by disclosing a similar apparatus having a tab-type feeder which includes a rotary tab and a scattering prevention cover and further includes a screen provided between the crushing device and conveyor (see pages 1-3 of the disclosed specification). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the claimed features, as suggested by APA, in the device of Masamichi et al for the purpose of producing chips from crushed wood.

Further, Masamichi et al fails to teach the cooling air inlet section is covered with a covering device. It would have been obvious to one of ordinary skill in the art to provide a covering for the cooling air inlet of Masamichi for the purpose of preventing injury to an operator. Also, the examiner takes the position that **when** the tab-type feeder is in a posture for working, the device would meet the claimed structure.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Admitted Prior Art (APA; JP009318) in view of Masamichi et al (JP170075).

The APA teaches most of elements of the claimed invention including a swinging mechanism having a swinging restricting section (6 and 4, respectively). However, APA fails to teach the drive unit provided between the rotary crushing device and the

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conveyor. Masamichi et al solves this problem by disclosing a similar device having the drive unit provided between the rotary crushing device and the conveyor as seen in figure 1. It would have been obvious to one of ordinary skill in the art to arrange the device of APA in the claimed position, as suggested by Masamichi et al for the purpose of providing a more accurate view of the area of the charging port of the hopper seen from the charging direction.

Response to Arguments

In response to applicants' remark to the declaration filed, it should be noted that although the applicants have provided a marked up copy of the original declaration, the declaration filed 07/08/05 does not include page 4 of the declaration. The applicant is required to provide a new declaration including all pages.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bena Miller/
Primary Examiner, Art Unit 3725
October 23, 2008